

BellSouth Reply  
March 21, 1997

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of )

Implementation of the Non-Accounting )  
Safeguards of Sections 271 and 272 of the )  
Communications Act of 1934, as amended. )

CC Docket No. 96-149

**BELLSOUTH REPLY**

BellSouth Corporation, on behalf of BellSouth Telecommunications, Inc., (collectively, "BellSouth") hereby responds to comments submitted pursuant to the Commission's *Further Notice of Proposed Rulemaking* ("FNPRM") in the above referenced proceeding.<sup>1</sup>

In the *FNPRM*, the Commission proposed an information maintenance and disclosure regimen to satisfy its previous determination that, in order for Section 272(e)(1) of the Act<sup>2</sup> to be implemented effectively, BOCs must make publicly available the intervals within which they provide service to themselves and their affiliates.<sup>3</sup> Most parties<sup>4</sup> generally acknowledged that the

<sup>1</sup> *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-489 (released Dec. 24, 1996) ("FNPRM").

<sup>2</sup> The Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.* See, 47 U.S.C. § 272(e)(1). This section states that BOCs "shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates."

<sup>3</sup> *FNPRM* at ¶ 368 (referring to paragraph 242 of the *FNPRM*).

<sup>4</sup> See, e.g., Bell Atlantic and NYNEX Joint Comments at 3; SBC Comments at 3; Pacific Telesis Comments at 2-4; Ameritech Comments at 2-8; U S West Comments at 2; BellSouth Comments at 2; Telecommunications Resellers Association Comments at iii.

Commission made a reasonable attempt to balance its documentation and reporting proposals against “unnecessary administrative burdens on the BOCs, unaffiliated entities, and the Commission.”<sup>5</sup> Others, however, ignored the Commission’s objective as well as the limited scope and purpose of Section 272(e)(1) and suggested reporting requirements that are substantially beyond those proposed by the Commission and not necessary to achieve the purpose of that section.<sup>6</sup> Those suggestions must be rejected.

By its terms, Section 272(e)(1) establishes a standard based on the time frame within which a BOC provides requested telephone exchange service or exchange access service. Specifically, the section requires a BOC to provide a requested service “within a period no longer than the period within which it provides such telephone exchange service and exchange access service to itself or to its affiliates.”<sup>7</sup> Any suggested reporting requirements that do not measure the relevant period or time interval are simply not supported by the language of the Act.

Thus, requests that the Commission impose service quality reporting requirements<sup>8</sup> under Section 272(e)(1) must be rejected. For example, reports of “percentage of customers suffering service outages, percentages of access lines with trouble reports, and percentages of held orders”<sup>9</sup> would not reflect information useful for comparing the duration of service intervals.

Similarly, AT&T’s proposed “quality related metrics”<sup>10</sup> would provide no insights as to

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<sup>5</sup> FNPRM at ¶ 369.

<sup>6</sup> See, e.g., AT&T Comments, *passim*; MCI Comments, *passim*; Sprint Comments, *passim*; TCG Comments, *passim*.

<sup>7</sup> 47 U.S.C. § 272(e)(1).

<sup>8</sup> See, e.g., AT&T Comments at 9-11; Sprint Comments at 3-4; MCI Comments at 5-6.

<sup>9</sup> Sprint Comments at 2.

<sup>10</sup> AT&T Comments at 9.

whether the periods of service installation for a BOC or an affiliate were longer or shorter than when a BOC provides service to a nonaffiliate. Nor does AT&T's bootstrapping assertion that such quality reporting is necessary to ensure meaningful comparison of service interval<sup>11</sup> data have any substance. AT&T's proposal would turn the clear and simple statutory requirement of comparable time periods into a sweeping nondiscrimination reporting requirement. Such a result would be contrary to the Commission's initial determination that it "should limit the scope of the proposals considered in this docket to requirements necessary to implement the service interval requirements of section 272(e)(1)."<sup>12</sup> Thus, the Commission should reject these suggested service quality reporting metrics.

The Commission also should dismiss suggestions that BOCs' reports be maintained or provided at the levels of disaggregation suggested by certain commenters.<sup>13</sup> The BOCs' affiliates will be entering the interLATA services market with zero market share. Disaggregation of data by affiliate and/or within a single state or smaller geographic area<sup>14</sup> is likely to produce results distorted by the comparatively small data set. Such disaggregation also may reveal competitively sensitive information about BOCs' business operations.<sup>15</sup> Nor is there a statutory basis for requiring separate reporting of results among BOC affiliates. As BellSouth noted in its comments,<sup>16</sup> the Section 272(e)(1) reference to services provided to the BOC "itself or to an affiliate" was meant to be inclusive and comprehensive; it was not meant to recognize the BOC or

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<sup>11</sup> AT&T Comments at 9-11.

<sup>12</sup> *FNPRM* at para. 382.

<sup>13</sup> *See, e.g.*, AT&T Comments at 18-19; TCG Comments at 14-17; Sprint Comments at 5.

<sup>14</sup> Sprint Comments at 5 (MSAs); TCG Comments at 16 (exchange area).

<sup>15</sup> *See*, U S West Comments at 9.

<sup>16</sup> BellSouth Comments at 4-5.

its affiliates separately.<sup>17</sup> Accordingly, BellSouth concurs with those urging reporting of data aggregated across entities and across states.<sup>18</sup>

The Commission also should reject proposals for reporting of services purchased pursuant to Section 251 agreements.<sup>19</sup> As a practical matter, BOCs are negotiating measurement and reporting standards appropriate to resold services and unbundled network elements in the specific context of the nondiscrimination obligations imposed by that section. Any additional federal requirement for information maintenance and disclosure related to such service arrangements would be, at best, duplicative, and worse, contradictory. No additional reporting related to those services is necessary to ensure BOCs are meeting their Section 251 obligations. Accordingly, the Commission was correct to confine the principle focus of its proposals to exchange access services provided to IXCs,<sup>20</sup> consistent with the primary focus of Section 272 on BOCs' provision of interLATA services.

Finally, BellSouth urges the Commission to heed the comments of those opposing reporting measurements based on customers' desired due dates. Parties opposing such reporting standards nearly unanimously pointed out how easily nonaffiliates could manipulate the results of

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<sup>17</sup> There is similarly no basis for requiring the BOCs to maintain data on behalf of nonaffiliated entities. Nonaffiliated entities are likely to maintain their own data anyway and are unlikely to rely on BOC provided data. While BOCs may be equally likely to track their own performance with respect to nonaffiliates, no purpose would be served by requiring the BOCs to maintain and disclose such information.

<sup>18</sup> U S West Comments at 9. At most, the Commission should require geographic disaggregation only to the state level. *See* Ameritech Comments at 16; Pacific Telesis Comments at 13.

<sup>19</sup> 47 U.S.C. § 251. *See* AT&T Comments at 11-14; MCI Comments at 4-5; Sprint Comments at 2.

<sup>20</sup> *FNPRM* at para. 376.

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such a measure by requesting unrealistic service intervals.<sup>21</sup> Moreover, as AT&T concedes, BOCs operating in a competitive market will have incentive enough to meet their customers' requested dates.<sup>22</sup> Enforcement pressures implied by a regulatory reporting requirement would only increase LXC's incentives to request unreasonable service intervals. Accordingly, reports of service intervals based on customer preferred due dates would add no positive value and should not be required.

Respectfully submitted,

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<sup>21</sup> U S West Comments at 5; Bell Atlantic and NYNEX Comments at 5; Ameritech Comments at 10-11; Pacific Telesis Comments at 4-5; BellSouth Comments at 3.

<sup>22</sup> AT&T Comments at 6.

**CERTIFICATE OF SERVICE**  
**(CC DKT. 96-149)**

I hereby certify that I have this 21st day of March, 1997 served the following parties to this action with a copy of the foregoing BELLSOUTH REPLY by placing a true and correct copy of the same in the United States mail, postage prepaid, addressed to the parties on the attached service list.

  
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